

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at GREENEVILLE

CYNTHIA LYNN CARTER,

*Plaintiff,*

v.

DRESS BARN ASCENA RETAIL GROUP,

*Defendant.*

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Case No. 2:19-cv-166

Judge Mattice

Magistrate Judge Lee

**ORDER**

On October 3, 2019, United States Magistrate Judge Susan K. Lee filed a Report and Recommendation (Doc. 4) pursuant to 28 U.S.C. § 636 and the Rules of this Court. The Magistrate Judge recommends that Plaintiff's Motion for Leave to Proceed In Forma Pauperis (Doc. 1) be denied. Magistrate Judge Lee advised that Plaintiff had 14 days in which to object to the Report and Recommendation and that failure to do so would waive any right to appeal. (Doc. 4 at 3 n.2). Plaintiff filed a timely objection to the Report and Recommendation.

Plaintiff does not challenge any specific findings of the Magistrate Judge, but explains that she is living off the amount in her checking account and paying some of her husband's bills, including taxes and insurance on a property he owns. The Court agrees with Magistrate Judge Lee's determination that Plaintiff has failed to demonstrate she is unable to pay the filing fee while still affording the necessities of life. However, Plaintiff's objection to the Report and Recommendation does explain some of the apparent inconsistencies in her original application. The Court will therefore permit Plaintiff to pay the filing fee in monthly installments.

Accordingly, the Court **ACCEPTS** and **ADOPTS** Magistrate Judge Lee's findings of fact and conclusions of law as set forth in the Report and Recommendation (Doc. 4). Plaintiff's Motion for Leave to Proceed In Forma Pauperis (Doc. 1) is **DENIED**.

It is **FURTHER ORDERED** that Plaintiff **SHALL** be responsible for payment of the \$400.00 filing fee in this case. On or before **November 13, 2019**, Plaintiff must make the first payment of \$100.00. The second, third, and fourth payments must be made on the first day of December, January, and February, respectively. Plaintiff is hereby put **ON NOTICE** that failure to timely remit any of these installment payments may result in the immediate dismissal of this action for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b).

The Clerk is hereby **DIRECTED** to issue the summons in this action upon proper presentation by Plaintiff and upon timely receipt of Plaintiff's first \$100.00 installment payment.

Plaintiff **SHALL** be responsible for the service of the summons and complaint upon Defendant, pursuant to Federal Rule of Civil Procedure 4, at her own expense.

**SO ORDERED** this 31st day of October, 2019.

/s/ Harry S. Mattice, Jr.  
HARRY S. MATTICE, JR.  
UNITED STATES DISTRICT JUDGE